

111TH CONGRESS
1ST SESSION

H. R. 1089

IN THE SENATE OF THE UNITED STATES

MAY 20, 2009

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

To amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and reemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Veterans Employment
3 Rights Realignment Act of 2009”.

4 **SEC. 2. ENFORCEMENT THROUGH OFFICE OF SPECIAL**
5 **COUNSEL OF VETERANS’ EMPLOYMENT OR**
6 **REEMPLOYMENT RIGHTS WITH RESPECT TO**
7 **EMPLOYERS THAT ARE FEDERAL EXECUTIVE**
8 **AGENCIES.**

9 (a) ENFORCEMENT OF RIGHTS THROUGH OFFICE OF
10 SPECIAL COUNSEL.—Section 4322 of title 38, United
11 States Code, is amended—

12 (1) by striking subsection (a) and inserting the
13 following new subsection (a):

14 “(a)(1)(A) A person described in subparagraph (B)
15 may file a complaint with the Secretary, and the Secretary
16 shall investigate such complaint.

17 “(B) A person described in this subparagraph is a
18 person who claims that—

19 “(i) such person is entitled under this chapter
20 to employment or reemployment rights or benefits
21 with respect to employment by an employer other
22 than an employer that is a Federal executive agency;
23 and

24 “(ii) such employer has failed or refused, or is
25 about to fail or refuse, to comply with the provisions
26 of this chapter.

1 “(2)(A) A person described in subparagraph (B) may
2 file a complaint with the Special Counsel established by
3 section 1211 of title 5.

4 “(B) A person described in this subparagraph is a
5 person who claims that—

6 “(i) such person is entitled under this chapter
7 to employment or reemployment rights or benefits
8 with respect to employment by an employer that is
9 a Federal executive agency; and

10 “(ii)(I) such employer has failed or refused, or
11 is about to fail or refuse, to comply with the provi-
12 sions of this chapter; or

13 “(II) such employer or the Office of Personnel
14 Management has failed or refused, or is about to fail
15 or refuse, to comply with the provisions of this chap-
16 ter.”;

17 (2) by striking subsections (d) and (e) and in-
18 serting the following new subsections (d) and (e):

19 “(d)(1) The Secretary shall investigate each com-
20 plaint submitted pursuant to subsection (a)(1). If the Sec-
21 retary determines as a result of the investigation that the
22 action alleged in such complaint occurred, the Secretary
23 shall attempt to resolve the complaint by making reason-
24 able efforts to ensure that the person or entity named in
25 the complaint complies with the provisions of this chapter.

1 “(2) If the efforts of the Secretary with respect to
2 any complaint filed under subsection (a)(1) do not resolve
3 the complaint, the Secretary shall notify the person who
4 submitted the complaint of—

5 “(A) the results of the Secretary’s investigation;
6 and

7 “(B) the complainant’s entitlement to proceed
8 under the enforcement of rights provisions provided
9 under section 4323.

10 “(e)(1) In the case of a complaint filed under sub-
11 section (a)(2), the Special Counsel shall investigate the
12 complaint. If the Special Counsel determines as a result
13 of the investigation that the action alleged in such com-
14 plaint occurred, the Special Counsel shall attempt to re-
15 solve the complaint by making reasonable efforts to ensure
16 that the person or entity named in the complaint complies
17 with the provisions of this chapter.

18 “(2) If the efforts of the Special Counsel with respect
19 to any complaint filed under subsection (a)(2) do not re-
20 solve the complaint, the Special Counsel shall notify the
21 person who submitted the complaint of—

22 “(A) the results of the investigation by the Spe-
23 cial Counsel; and

1 “(B) the complainant’s entitlement to proceed
2 under the enforcement of rights provisions provided
3 under section 4324.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
5 Such title is further amended—

6 (1) in section 4322(b), by striking “Such com-
7 plaint” and inserting “Each complaint filed under
8 subsection (a)”;

9 (2) in section 4323(a)—

10 (A) in paragraph (1), by striking “section
11 4322(e)” and inserting “section 4322(d)(2)”;
12 and

13 (B) in paragraph (3)(A), by striking “sec-
14 tion 4322(a)” and inserting “section
15 4322(a)(1)”;

16 (3) in section 4324—

17 (A) in subsection (a)(1)—

18 (i) in the first sentence, by striking
19 “Secretary” each place it appears and in-
20 serting “Special Counsel”;

21 (ii) by striking “section 4322(e)” and
22 inserting “section 4322(e)(2)”;

23 (iii) by striking the second sentence;
24 and

25 (B) in subsection (b)—

1 (i) in paragraph (1)—

2 (I) by striking “Secretary” and
3 inserting “Special Counsel”; and

4 (II) by striking “section
5 4322(a)” and inserting “section
6 4322(a)(2) of this title”; and

7 (ii) in paragraph (2)—

8 (I) by striking “Secretary” and
9 inserting “Special Counsel”; and

10 (II) by striking “section 4322(e)”
11 and inserting “section 4322(e)(2) of
12 this title”;

13 (4) in section 4325(c), by striking “section
14 4322(d)” and inserting “section 4322(d)(1)”; and

15 (5) in section 4326—

16 (A) in subsection (a), by inserting “or the
17 Special Counsel’s” after “Secretary’s”; and

18 (B) by striking “Secretary” each place it
19 appears and inserting “Secretary or the Special
20 Counsel”.

21 (c) CONFORMING REPEAL.—The Veterans Benefits
22 Improvement Act of 2004 (Public Law 108–454) is
23 amended by striking section 204.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to complaints filed
3 on or after the date of the enactment of this Act.

Passed the House of Representatives May 19, 2009.

Attest: LORRAINE C. MILLER,
Clerk.